

SUBCOMMITTEE NO. 4

Agenda

Senator Mark DeSaulnier, Chair
Senator Tom Harman
Senator Gloria Negrete McLeod



Thursday, May 6, 2010
9:30 a.m. (or upon adjournment of session)
Room 112

Consultant: Brian Brown

Item Number and Title

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Items to Be Heard

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Vote Only Items

	Issue	2010-11 Amount	Fund Source	Staff Recommendation
	Judicial Branch (0250)			
1	Parking penalties	-	Trailer bill language	Approve
2	Penalty assessment adjustments	-	Trailer bill language	Approve
3	Long Beach Courthouse possessory tax exemption	-	Trailer bill language	Approve
	Department of Justice (0820)			
1	Western State Information Network	-\$5,994,000 \$5,994,000	Federal Trust Fund Reimbursements	Approve
	Department of Alcoholic Beverage Control (2100)			
1	Liquor license fee	\$394,200 (revenues)	Alcohol and Beverage Control Fund	Approve
	California Law Revision Commission (8830)			
1	Funding shift	-\$666,000 \$666,000	General Fund Reimbursements	Modify: add BBL to reimburse from Legislative Counsel Bureau for one year
	Commission on Uniform State Laws (8840)			
1	Funding shift	-\$148,000 \$148,000	General Fund Reimbursements	Modify: add BBL to reimburse from Legislative Counsel Bureau for one year

Vote Only Items – Issue Descriptions

Judicial Branch (0250)

Issue 1 – Parking Penalties Trailer Bill Language

Prior to 2008, Government Code Section 70372(b) required an additional penalty of \$1.50 on parking offenses for state courthouse construction. At the same time, Section 70375 allowed the penalty required in 70372 to be offset by the amount collected for the local courthouse construction fund. However, the offset provision was eliminated in SB 425 – (Margett, Statutes of 2007), thereby making mandatory the collection and remittance of the \$1.50 parking penalty. Based on remittance records, it appears that most entities overlooked the statutory change, and only three counties properly remitted the \$1.50 appropriately in 2008. The Administrative Office of the Courts (AOC) and the California State Association of Counties (CSAC) seek language notifying the State Controller's Office that counties will not be held liable for failure to remit the \$1.50 prior to January 1, 2009.

Issue 2 – Plumas and Sutter County Penalty Assessment Adjustments

The SB 1732 (Escutia – Chapter 1082, Statutes of 2002) added subdivision (e) to Section 76000 to address the amount of surcharge that could be collected for local courthouse construction funds. The AOC notes that the amount identified for Plumas County incorrectly states that the surcharge is \$5 when it should read \$7. Similarly, the amount identified for Sutter County is \$3 when it should read \$6. The AOC notes that Plumas County has otherwise been authorized to collect \$7 for this purpose since 1992.

Issue 3 – Long Beach Courthouse Possessory Tax Exemption

In 2007, the Legislature approved a proposal to construct the New Long Beach Courthouse utilizing a public-private partnership to finance the project. Two financing models were proposed in the request for proposals (RFP) issued for the construction of the courthouse, potentially subjecting the property to an estimated property tax of \$4 to \$5 million annually. Existing law makes property owned by the State of California exempt from property tax. However, if a private entity has a "possessory interest" in the public property, it is subject to property tax. Based on the RFP issued by AOC, any possessory property tax assessed would be reimbursed by AOC. The AOC is requesting language that would exclude this project from property tax for the share of the property operated by the courts. This language is modeled after existing law for another project (Streets and Highway Code Section 143(o)).

Department of Justice (0820)

Issue 1 – Western States Information Network

The department requests a reduction in Federal Trust Fund authority and an increase in Reimbursement authority of \$5,994,000. The DOJ has acted as the recipient agency of federal funds for the Western States Information Network (WSIN), a regional program for the sharing of law enforcement databases for Alaska, California, Hawaii, Oregon, and Washington. The WSIN Policy Board approved the reorganization of WSIN to make it a nonprofit entity, similar to the organizational structure of other regional networks. This change necessitates the proposed technical adjustment to fund this program through reimbursement authority instead of federal funds.

Department of Alcoholic Beverage Control (2100)

Issue 1 – Liquor License Fee Adjustment

The administration proposes to increase the fee for a general liquor license 15 percent to \$13,800. Upon full implementation, the fee increase would generate an estimated \$788,400 in new revenues to be deposited into the Alcoholic Beverages Control Fund. The current fee for a general liquor license is \$12,000. This fee was last adjusted in 1995.

California Law Revision Commission (8830)

Issue 1 – Funding Shift

The Governor's budget proposes to shift General Fund support of \$666,000 for the CLRC to reimbursement from the Legislature's budget. The Legislative Counsel has agreed to adoption of budget bill language which would absorb the General Fund budget costs for the California Law Revision Commission in 2010-11. Staff recommends modification of the Governor's proposal by funding the CLRC General Fund costs from reimbursements from the General Fund budget of the Legislative Counsel Bureau instead of the Legislature. Further, staff recommends making this action for the 2010-11 budget year only and adopting the following budget bill language:

For the 2010-11 fiscal year only, the reimbursements identified in Schedule (2) shall be paid from the amounts appropriated in Items 0160-001-0001 and 0160-001-9740.

Commission on Uniform State Laws (8840)

Issue 1 – Funding Shift

The Governor's budget proposes to shift General Fund support of \$148,000 for the CLRC to reimbursement from the Legislature's budget. The Legislative Counsel has agreed to adoption of budget bill language which would absorb the General Fund budget costs for the California Law Revision Commission in 2010-11. Staff recommends modification of the Governor's proposal by funding the CLRC General Fund costs from reimbursements from the General Fund budget of the Legislative Counsel Bureau instead of the Legislature. Further, staff recommends making this action for the 2010-11 budget year only and adopting the following budget bill language:

For the 2010-11 fiscal year only, the reimbursements identified in Schedule (2) shall be paid from the amounts appropriated in Items 0160-001-0001 and 0160-001-9740.

Judicial Branch (0250)

Departmental Overview. The California Constitution vests the state's judicial power in the Supreme Court, the Court of Appeals, and the trial courts. The Supreme Court, the six Courts of Appeal, and the Judicial Council of California, which is the administrative body of the judicial system, are entirely state supported. *Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle)*, shifted fiscal responsibility for the trial courts from the counties to the state. California has 58 trial courts, one in each county. The Trial Court Funding program provides state funds (above a fixed county share) for support of the trial courts.

The Judicial Branch consists of two components: (1) the judiciary program (the Supreme Court, Courts of Appeal, Judicial Council, and the Habeas Corpus Resource Center), and (2) the Trial Court Funding program, which funds local superior courts. The 2005-06 Budget Act merged funding for the judiciary and Trial Court Funding programs under a single "Judicial Branch" budget item. It also shifted local assistance funding for a variety of programs, and the Equal Access Fund from the Judicial Council budget to the Trial Court Funding budget.

Budget Overview. The Governor's budget provides a total of \$3.76 billion (includes \$350 million from the proposed Regional Development Agencies [RDA] shift) in 2010-11. This reflects about a one percent increase over the estimated spending levels for the current year which is \$3.71 billion (including \$1.52 billion from the proposed RDA shift). Historically, the General Fund has provided somewhat more than half of the total funding for the Judicial Branch.

The Branch is authorized for 2,032 state positions (PYs), primarily for the Courts of Appeal and Judicial Council. This figure does not include trial court employees throughout the state.

Issue 1 – AOC Collections Trailer Bill Proposal

Background. On April 15th, the AOC presented several trailer bill proposals to the committee. One of the proposals, a package of changes to improve the state's system of court-ordered fine and fee collections, was still in development at that time. The AOC now reports that it has completed drafting its proposed trailer bill language.

Proposal Description. Penal Code Section 1463.010 states that the AOC and the California State Association of Counties (CSAC) are jointly committed to improving the collection of court-ordered debt. The AOC and CSAC are currently developing a package of proposals to achieve this objective. Previously, staff had been informed that the language could include aspects such as incentivizing more effective collection practices, implementing an amnesty program for past debt, clarifying authority related to discharge of outstanding debt, extending the State Controller's Office unclaimed property program to allow for the offset payments against outstanding court-ordered debt, and extending the period that certain debts can be collected to beyond the current ten-year time allowed now. Taken

together, the AOC and CSAC believe that these proposals could improve collections and enhance revenue recovery, provide a more accurate profile of collectible debt, expand the tools and strategies available to courts and counties, and result in greater compliance with court orders statewide.

Staff Recommendation. Staff has received the proposed language only a couple of days before this agenda was prepared. At this time, staff raises no specific objections to the proposed language, but recommends holding the issue open to allow staff more time to review the language.

Department of Justice (0820)

Departmental Overview. The Attorney General is the chief law officer of the state and has the responsibility to see that the laws of California are uniformly and adequately enforced. This mission is fulfilled through the diverse mission of the Department of Justice (DOJ).

The DOJ is responsible for providing legal services on behalf of the people of California. The Attorney General represents the people in all matters before the Appellate and Supreme Courts of California and the United States; serves as legal counsel to state officers, boards, commissions, and departments; represents the people in actions to protect the environment and to enforce consumer, antitrust, and civil rights laws; and assists county district attorneys in the administration of justice.

The DOJ also coordinates efforts to address the statewide narcotic enforcement problem; assists local law enforcement in the investigation and analysis of crimes; provides person and property identification and information systems to criminal justice agencies; supports the telecommunications and data processing needs of the California criminal justice community; and pursues projects designed to protect the people of California from fraudulent, unfair, and illegal activities.

Budget Overview. The 2010-11 budget proposal provides \$749.9 million for DOJ. This is an increase of \$17.2 million over projected expenditures for the current year. The Governor's proposed budget includes about \$246 million in General Fund support for DOJ. The department is funded for 5,013 positions, a slight reduction from the current year.

Issue 1 – Gun Show Program Augmentation

Background. In 2000-01, DOJ received funding to establish an enforcement team for purposes of preventing sales of illegal firearms and ammunition by monitoring and investigating buyers and sellers participating in gun shows throughout California. This program currently has four agents assigned to it.

Governor's Budget Request. The department requests a net augmentation of \$185,000 for an additional Special Agent for its enforcement team responsible for investigating gun shows with the intention of preventing sales of illegal firearms and ammunition. This request includes in the transfer of current General Fund support for this program of \$616,000 to the Dealers' Record of Sales (DROS) Account. The combination of the additional position and transfer of General Fund costs results in a total augmentation to the DROS Account of \$801,000, and provides a General Fund reduction of \$616,000.

	2010-11
General Fund	-\$616,000
Dealer Record of Sale Account	\$801,000
PY's	0.9

Staff Comments. The DOJ reports that there are approximately 97 gun shows in California annually, ranging in size from 150 tables (vendors) to 5,300 tables per show. The department further reports that it has reduced its staffing of this program by 40 percent in recent years due to budget cuts. The proposed shift of the program from the General Fund to the DROS Account would result in General Fund savings of \$616,000. The Department of Finance projects the DROS Account to have a healthy fund balance of \$17.9 million at the end of the budget year, suggesting that the fund is fully capable of absorbing these additional costs.

Staff Recommendation. Approve as budgeted.

California Department of Corrections and Rehabilitation (5225)

Departmental Overview. Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created pursuant to the Governor's Reorganization Plan 1 of 2005 and Chapter 10, Statutes of 2005 (SB 737, Romero). All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and include YACA, the California Department of Corrections, Youth Authority, Board of Corrections, Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training.

According to the department's website, its mission is to "enhance public safety through the safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities."

The CDCR is responsible for the incarceration, training, education, and care of adult felons and nonfelon narcotic addicts, as well as juvenile offenders. The CDCR also supervises and treats adult and juvenile parolees, and is responsible for the apprehension and reincarceration of those parolees who commit new offenses or parole violations. The department also sets minimum standards for the operation of local detention facilities and selection and training of law enforcement personnel, as well as provides local assistance in the form of grants to local governments for crime prevention and reduction programs.

The department operates 33 adult prisons, including 12 reception centers, a central medical facility, a treatment center for narcotic addicts under civil commitment, and a substance abuse facility for incarcerated felons. The CDCR also operates five juvenile correctional facilities, including two reception centers. In addition, CDCR manages 13 Community Correctional Facilities, about 50 adult and juvenile conservation camps, the Richard A. McGee Correctional Training Center, and nearly 200 adult and juvenile parole offices, as well as houses inmates in 6 out-of-state correctional facilities.

Budget Overview. The 2010-11 General Fund budget for CDCR is \$8.5 billion, primarily for adult prison operations. This total is a decrease compared to estimated expenditures in the current year, primarily because of proposals to reduce spending on inmate health care, make certain felony offenses punishable by local jail instead of prison, and the continued implementation of legislative reforms enacted in the 2009-10 budget. Overall, the Governor's proposed budget provides about 11 percent of General Fund resources to CDCR.

Issue 1 – Headquarters Staffing - Oversight

Background. As described above, the Legislature approved the reorganization and consolidation of various departments into the California Department of Corrections and Rehabilitation in 2005. One of the rationales for this reorganization was that it would provide increased efficiency, for example through the centralization of policy and administrative

functions.

On April 6th, Senator DeSaulnier, as Chair of this Subcommittee, sent a letter to Secretary Cate requesting information on the number of staff and total funding provided for CDCR headquarters this year, as well as for the comparable resources provided for headquarters prior to 2005 in those departments, boards, and agencies that were consolidated. The Senator's letter further requested explanations for any significant changes in staffing or funding levels.

This issue was agendaized for the April 15th hearing, but the department asked for more time to complete their analysis and present it to the committee in writing.

Staff Comments. At the time this agenda was prepared, the department had not yet provided its analysis in response to the Chair's request for information. The committee should ask the department to present during the hearing on the changes to total headquarters staffing and funding. In particular, the committee may want to ask the department to explain what factors account for any significant staffing and funding changes.

In addition the committee may wish to ask the department to respond to a related question raised at the April 15th hearing. At that hearing, the committee asked the department to report on the total staffing levels in the prison education and vocational programs, including the number that are line staff and supervisory positions.

Issue 2 – Options for Improving Budget Transparency and Accountability

Background. On March 23rd, the Senate and Assembly budget subcommittees with jurisdiction over the corrections budget held a joint hearing to discuss three legislative proposals designed to create more transparency and accountability in CDCR's budget. The three proposals are described below.

- **Budget Act Programs.** One method of achieving increased visibility into and accountability of a budget is to increase the detail in the annual Budget Act. Specifically, the Legislature could break up the large appropriations into smaller appropriations and require CDCR to notify the Legislature whenever funds are moved between appropriations. This will give the Legislature the ability to designate funds for a specific purpose, be able to see that the funds are budgeted for that purpose, and rest relatively assured that the funds are not used for any other purpose. Any new structure would need to allow the department to move funds between Items, but with legislative notification. This structure would give the department a level of flexibility consistent with current Budget Act provisions, eliminate the large appropriations, and give the Legislature increased visibility into how CDCR spends their budget.

- ***Annual Report on Performance and Outcomes.*** Another approach to increasing budget transparency and accountability is to require the department to present the Legislature with an annual report that details its performance and outcomes of key department programs. The structure of such a report could include the following characteristics: (1) focus on key outcome performance measures, (2) be linked to budget programs, (3) provide data on trends over multiple years, (4) establish department goals, and (5) be made publicly available on the department's website.
- ***Inmate Population Budget Process.*** A third approach would be to transform the way the department budgets for changes in the inmate population. Rather than using a blanket ratio of six to one to make population based adjustments, as is currently done, the CDCR could develop staffing ratios based on the level of inmate. For example, Reception Center, Level IV, and inmates in Specialized Housing (such as Security Housing Units) generally require greater custody attention and thus devotion of more resources than Level I, Level II, or even Level III inmates. Due to the varying levels of resources needed for each type of inmate, the ratios used to determine resource need should tie more closely to the population changes by type of inmate. Importantly, this approach would allow the department to cease using the Institution Activation Schedule - a population management tool - for the budgeting, a purpose for which it is ill-equipped and adds unnecessary complexity.

At the March 23rd joint hearing, the committees directed the department and staff to continue to work on the development of specific language to implement the three proposals and present their progress to the subcommittees in early May. The purpose of this agenda item is to update the committee on the progress made to date on these three issues.

Staff Comments. Committee staff has continued to work with the department, LAO, DOF, and Assembly budget staff to continue to develop specific proposals to present to the committee. The status of each of the three proposals is discussed below.

- ***Budget Act Programs.*** At the direction of the committees, staff has continued to work towards identifying additional ways to delineate various budget activities to create greater budget detail and more accountability for how the department spends its budget appropriations. The administration has continued to raise concerns about the additional workload that could be created by this effort, particularly related to its accounting and budget systems. Staff has created a proposal that would increase the number of budget programs. Staff believes this approach should help to address the administration's workload concerns because it creates additional budget *programs* rather than additional budget *items*.
- ***Annual Report on Performance and Outcomes.*** At the March 23rd hearing, the department requested additional time to develop specific performance and outcome measures that would be consistent with the department's revised Strategic Plan which was being finalized at the time of that hearing. At the time this agenda was prepared, the department had not yet provided its analysis or proposal to the committee. The CDCR indicates that it may have more difficulty collecting certain performance information than previously anticipated.

- ***Inmate Population Budget Process.*** Staff has drafted budget bill language that requires CDCR to present its 2010-11 inmate population budget request utilizing staffing ratios, and prohibits the department from utilizing the Institution Activation Schedule for this purpose.

The committee may wish to ask the department and LAO to present the current status of these efforts as directed by the committee last month. The committee may further wish to direct the department and staff to prepare a final package of proposals to be adopted before conference committee.